

REDACTED

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SIMO HOLDINGS, INC.,

Plaintiff,

vs.

Case No. 18-cv-5427 (JSR)

HONG KONG UCLOUDLINK NETWORK

TECHNOLOGY LIMITED, AND

UCLOUDLINK (AMERICA), LTD.,

Defendants.

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VIDEOTAPED DEPOSITION OF CHRISTOPHER MARTINEZ

Tuesday, February 5, 2019

Reported by:

LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC
California CSR No. 10523

Job No. WDC-205960

1 per customer on average, so --

2 Q. Right. But in all of these summaries and
3 schedules, you've never done that actual analysis;
4 correct?

5 A. That's correct. I haven't done that
6 analysis because I was waiting for the actual data
7 to do it. Absent that data, I could do the estimate
8 based on the information that's in my report.

9 Q. All right. Fair enough. I'm just trying
10 to ascertain if it's in your report. That's all I
11 want to know. Thank you.

12 Would -- if you did that estimate, would
13 that affect your analysis of the reasonable royalty
14 in your report?

15 MR. SOSKIN: Objection.

16 THE WITNESS: You mean the unit reasonable
17 royalty, [REDACTED] or the total?

18 BY MR. SOSKIN:

19 Q. The estimate -- yeah. I'm sorry. [REDACTED]
20 You estimated that -- okay. Sorry. We're
21 all getting messed up. I'm getting messed up.

22 If you did the estimate that you said you
23 could do, would that affect the reasonable royalty
24 that you calculated in your report?

25 A. Again, the per-unit reasonable royalty or

1 the total reasonably royalty?

2 Q. Well, the total reasonable royalty. Let's
3 start there.

4 A. Yes. Because even if I added one more unit
5 of infringing -- one more day pass, that would
6 increase my total reasonable royalty by ■■■; right?
7 Define the ■■■ by that.

8 So -- I mean, again, I don't know what --
9 the outcome, but I'm assuming if they sold ■■■
10 hardware units, that there's some multiple of that
11 in terms of day passes. You would have to convert
12 it to the right number of megabytes. There's some
13 math that has to go on there.

14 But basically you're going to get more
15 units, more day passes, that would have a royalty
16 applied to them.

17 Q. If you did that estimation that you said
18 you could do, would that affect your royalty base?

19 A. Yes. It affects the royalty base.

20 Q. How would it affect the royalty base?

21 A. It would -- again, we have -- let's just
22 say we have a static royalty base right now that's
23 documented in my report. If we said -- just say,
24 for sake of argument, there are ■■■ hardware
25 units sold by the defendants. And let's just say,

1 for sake of argument, they sell [REDACTED] day passes per
2 hardware -- piece of hardware over the life of that
3 hardware.

4 So then you have [REDACTED] multiplied by [REDACTED]
5 hardware units, gets you to [REDACTED] day passes.
6 You're going to have to convert those day passes to
7 the right megabyte numbers. But, that said, you've
8 got that -- maybe that many more units in your base.

9 Q. But that estimation, by definition, also
10 has to affect your royalty rate; correct?

11 MR. SOSKIN: Objection.

12 THE WITNESS: Why? I mean, I don't know
13 that it would.

14 BY MR. SOSKIN:

15 Q. That information isn't going to affect your
16 Georgia-Pacific analysis?

17 A. I mean, I would think about it in
18 Georgia-Pacific, but I don't know that it changes
19 the quantification of the -- quantification of the
20 per-unit royalty rate is based on what we've already
21 talked about, and that was not a function of the
22 units, the accused units.

23 Q. Is it -- not from -- okay.

24 I just want to know if, in your opinion,
25 use of data outside the United States, is that -- do

1 Earlier you mentioned estimating the value
2 of an international data use stemming from sales of
3 hotspots sold in the United States.

4 Do you remember that?

5 A. Yes.

6 Q. How would you make such an estimate?

7 MR. BUSBY: I'm going to object as outside
8 the scope of the expert report, and I'm going to
9 move to strike if there's any type of calculations
10 that are performed that are not in the expert
11 report.

12 MR. SOSKIN: I understand your objections.

13 THE WITNESS: So I would estimate by taking
14 the -- the number of -- of uCloudlink accused
15 hotspots and -- which I think is [REDACTED], and it's
16 part of my -- it's -- the number is listed in my
17 report. I would then make -- see if there is
18 information about the number of day passes purchased
19 per hotspot and multiply that [REDACTED] hotspots by the
20 number of day passes purchased by hotspot to come up
21 with a proxy for the number of day passes sold to
22 customers who purchased a hotspot in the United
23 States.

24 BY MR. SOSKIN:

25 Q. And you don't have a number of hotspots

1 sold to customers who purchased hotspots in the
2 United States with respect to uCloudlink products;
3 correct?

4 A. That's correct.

5 Q. Do you know, would the -- is there a
6 another number you can use to estimate the number of
7 day passes sold for uCloudlink's hotspots sold in
8 the United States?

9 A. Well, I do know that there's a document
10 produced by Skyroam that shows the number of day
11 passes purchased per Skyroam hotspot. So absent
12 uCloudlink information, I would use the Skyroam
13 statistic as a proxy.

14 MR. BUSBY: And, again, I'm going to
15 object. This is outside the expert report. It
16 wasn't in the expert report. This is the first I've
17 heard of this analysis. And we will go to court on
18 this.

19 MR. SOSKIN: Do you want to mark next in
20 order, or do you want to start a new set of
21 numbering?

22 MR. BUSBY: I would go in order. I think
23 it's easier.

24 MR. SOSKIN: That's fine.

25 So this will be Exhibit --

1 THE REPORTER: 15.

2 MR. SOSKIN: Is it 15? It's going to be
3 Bates No. SIMO_0264150. I'm sorry. No, no, no.
4 Sorry. 0264149. No.

5 THE REPORTER: I have 46.

6 MR. SOSKIN: 146. Sorry.

7 (Marked for identification purposes,
8 Exhibit 15.)

9 BY MR. SOSKIN:

10 Q. Have you seen this document before?

11 A. I have.

12 Q. Is this the document you were referring to
13 in your previous answer?

14 A. Yes, it is.

15 Q. And what does this document show you?

16 A. So in the -- what is it, the fourth --
17 fifth row down, it says "[REDACTED]
18 [REDACTED]," which I assume means day passes. And it shows
19 that -- it has a March 2017, there were [REDACTED] day
20 passes purchased per customer. In July of '18,
21 there were [REDACTED] day passes purchased per customer.

22 Q. So how would this information help you
23 estimate the number of day passes sold by uCloudlink
24 customers with respect to products -- the devices
25 purchased in the United States but then used abroad?

1 A. So I would simply use Skyroam's statistics
2 presented in this Exhibit 15 and assume that
3 uCloudlink would have the similar experience in
4 terms of selling its day passes to its customers.

5 So you could simply multiply maybe one of
6 these numbers, [REDACTED], times the [REDACTED] hotspots
7 sold by uCloudlink to get an estimation of accused
8 day passes sold related to hotspots sold in the
9 United States.

10 Q. Okay. And looking at page 1 of 3 of your
11 report or -- I guess it's Schedule 3, is this
12 document in Schedule 3 of your report? And we're
13 looking at -- I believe this is Exhibit 2.

14 A. Yes. It's -- yeah. This document is in a
15 Bates range that's included in my Schedule 3 to
16 Exhibit 2.

17 Q. Okay. And when formulating your opinions
18 in this case, did you consider this document?

19 A. I did, yes.

20 Q. So if you were to include the hotspots
21 themselves into your damages calculation, would you
22 have a separate royalty rate for the hardware, or
23 would you include it as part of the -- as part of
24 one royalty with the -- with the data?

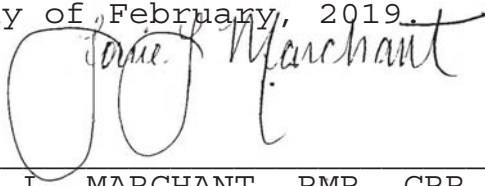
25 A. You could -- I guess you could conceivably

REPORTER CERTIFICATE

I, LORRIE L. MARCHANT, Certified Shorthand Reporter, Certificate No. 10523, for the State of California, hereby certify that CHRISTOPHER MARTINEZ was by me duly sworn/affirmed to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place herein named; that the deposition is a true record of the witness's testimony as reported to the best of my ability by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed under my direction into typewriting by computer; that request [] was [X] was not made to read and correct said deposition.

I further certify that I am not interested in the outcome of said action, nor connected with, nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February, 2019.



LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC
Certified Shorthand Reporter #10523